

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 988

Introduced by Assembly Member Bogh

February 18, 2005

An act to amend Section 186.2 of the Penal Code, relating to criminal profiteering.

LEGISLATIVE COUNSEL'S DIGEST

AB 988, as amended, Bogh. Criminal profiteering.

Existing law specifies various offenses for purposes of defining criminal profiteering activity, and patterns of criminal profiteering activity. Existing law also provides for the forfeiture of specified assets for persons who engage in a pattern of criminal profiteering activity, upon conviction of an underlying offense, as specified.

This bill would add *to* those specified offenses, the offense of theft of personal identifying information, as specified.

By expanding the list of offenses that may subject a person to prosecution for criminal profiteering activity, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of this chapter, the following definitions apply:

(a) “Criminal profiteering activity” means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

- (1) Arson, as defined in Section 451.
- (2) Bribery, as defined in Sections 67, 67.5, and 68.
- (3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.
- (4) Felonious assault, as defined in Section 245.
- (5) Embezzlement, as defined in Sections 424 and 503.
- (6) Extortion, as defined in Section 518.
- (7) Forgery, as defined in Section 470.
- (8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.
- (9) Kidnapping, as defined in Section 207.
- (10) Mayhem, as defined in Section 203.
- (11) Murder, as defined in Section 187.
- (12) Pimping and pandering, as defined in Section 266.
- (13) Receiving stolen property, as defined in Section 496.
- (14) Robbery, as defined in Section 211.
- (15) Solicitation of crimes, as defined in Section 653f.
- (16) Grand theft, as defined in Section 487.
- (17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.
- (18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.
- (19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

1 (20) Presentation of a false or fraudulent claim, as defined in
2 Section 550.

3 (21) False or fraudulent activities, schemes, or artifices, as
4 described in Section 14107 of the Welfare and Institutions Code.

5 (22) Money laundering, as defined in Section 186.10.

6 (23) Offenses relating to the counterfeit of a registered mark,
7 as specified in Section 350.

8 (24) Offenses relating to the unauthorized access to
9 computers, computer systems, and computer data, as specified in
10 Section 502.

11 (25) Conspiracy to commit any of the crimes listed above, as
12 defined in Section 182.

13 (26) Subdivision (a) of Section 186.22, or a felony subject to
14 enhancement as specified in subdivision (b) of Section 186.22.

15 (27) Any offenses related to fraud or theft against the state's
16 beverage container recycling program, including, but not limited
17 to, those offenses specified in this subdivision and those criminal
18 offenses specified in the California Beverage Container
19 Recycling and Litter Reduction Act, commencing at Section
20 14500 of the Public Resources Code.

21 (28) Theft of personal identifying information, as defined in
22 Section 530.5.

23 (b) "Pattern of criminal profiteering activity" means engaging
24 in at least two incidents of criminal profiteering, as defined by
25 this act, that meet the following requirements:

26 (1) Have the same or a similar purpose, result, principals,
27 victims, or methods of commission, or are otherwise interrelated
28 by distinguishing characteristics.

29 (2) Are not isolated events.

30 (3) Were committed as a criminal activity of organized crime.

31 Acts that would constitute a "pattern of criminal profiteering
32 activity" may not be used by a prosecuting agency to seek the
33 remedies provided by this chapter unless the underlying offense
34 occurred after the effective date of this chapter and the prior act
35 occurred within 10 years, excluding any period of imprisonment,
36 of the commission of the underlying offense. A prior act may not
37 be used by a prosecuting agency to seek remedies provided by
38 this chapter if a prosecution for that act resulted in an acquittal.

39 (c) "Prosecuting agency" means the Attorney General or the
40 district attorney of any county.

1 (d) “Organized crime” means crime that is of a conspiratorial
2 nature and that is either of an organized nature and seeks to
3 supply illegal goods and services such as narcotics, prostitution,
4 loan sharking, gambling, and pornography, or that, through
5 planning and coordination of individual efforts, seeks to conduct
6 the illegal activities of arson for profit, hijacking, insurance
7 fraud, smuggling, operating vehicle theft rings, fraud against the
8 beverage container recycling program, or systematically
9 encumbering the assets of a business for the purpose of
10 defrauding creditors. “Organized crime” also means crime
11 committed by a criminal street gang, as defined in subdivision (f)
12 of Section 186.22. “Organized crime” also means false or
13 fraudulent activities, schemes, or artifices, as described in
14 Section 14107 of the Welfare and Institutions Code *and the theft*
15 *of personal identifying information, as defined in Section 530.5.*

16 (e) “Underlying offense” means an offense enumerated in
17 subdivision (a) for which the defendant is being prosecuted.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.